

HR Guide

Disciplinary

The appeal hearing stage

This document does not constitute a legal opinion or legal advice and is intended to be a guide only. To ensure you follow best practice (and, if applicable, do not compromise your insurance), you should contact the Alcumus HR Consultancy team before embarking on the process and at each subsequent stage.

Disciplinary: The appeal hearing stage

When and how should an employee appeal?

The disciplinary outcome letter will give the employee the right to appeal. Typically, this needs to be exercised within 5 working days of receipt of the letter. The appeal should be in writing and clearly state the grounds of appeal (which may include the introduction of any supporting evidence). If the letter of appeal does not state the grounds of appeal, the employee can be asked to detail the grounds of appeal.

When should the appeal hearing take place?

After you have received the written grounds of appeal you can write to the employee to invite them to the appeal hearing and give them at least 2 working days' notice of the hearing from receipt of the invite letter. The invite letter should detail where and when the appeal hearing is taking place, the grounds of appeal received, explaining the fact that the hearing is not to be a complete re-hearing of the original disciplinary hearing (this would generally only be the case where there are concerns about the manner in which the disciplinary hearing was carried out/conducted) and inform the employee of their right to be accompanied. Please speak to a member of the Alcumus HR Consultancy team regarding the appeal hearing invite letter.

Who should chair the hearing?

The hearing should be chaired by someone who is authorised to carry out such hearings, who has not been involved in the process to date and who is ideally more senior than the person who chaired the disciplinary hearing (although sometimes they can be level in seniority as, for example, a director may chair the disciplinary hearing and a fellow director may chair the appeal hearing). Typically, it would be the most senior person in the business (e.g. in a limited company this would usually be the managing director). The Chair should be accompanied by a colleague who can take notes at the hearing.

Planning for the hearing

As the Chair of the hearing, you should:

- Ensure you understand the appeal procedure
- Review and understand all of the material from the disciplinary hearing, the grounds of appeal and any new supporting evidence introduced for the appeal
- Think about the questions you wish to ask the employee in the hearing

- Remember the purpose of the hearing is to consider the appeal against the disciplinary sanction/dismissal, to fully understand the reasons for the appeal and to consider any new supporting evidence.

At the hearing

As the Chair of the hearing, you should:

- Introduce those present at the hearing and why they are there
- If the employee has decided not to be accompanied, explain that the employee was given the right to be accompanied but chose to attend alone
- Explain what the structure of the hearing will be:
 - You will ask why the employee is appealing against their disciplinary sanction/dismissal and give the employee the opportunity to state their grounds of appeal;
 - Consider any new evidence introduced and allow the employee the opportunity to comment on it;
 - This will then lead to general questioning and discussion;
 - Once all the relevant issues have been thoroughly explored, you will summarise the facts and adjourn to consider your decision;
 - The final decision will be communicated in writing.
- Explain that either party can adjourn at any point.
- Conduct the hearing in line with the structure outlined above.

If, during the hearing, new facts emerge, decide whether further investigation is required, in which case adjourn the hearing and reconvene when the investigation is completed.

After all general questioning and discussion, summarise the main points raised by the employee and/or their representative to ensure nothing has been missed and to help demonstrate that it was a fair hearing.

Explain that you have listened carefully to the points today, thank the employee for attending, that you will now take some time to consider what has been discussed and that the final decision will be communicated in writing, wherever possible, in 5 working days.

The decision

Consider all the facts and the employee's responses before making a decision. If the facts are disputed, decide, in your reasonable belief, which version of the facts you believe to be true (please do speak to a member of the Alcumus HR Consultancy team (where appropriate) to discuss your proposed decision following the appeal hearing).

Do not be afraid to change a previous decision if it becomes apparent that this was not the appropriate decision. Do not regard a decision to make this change as undermining authority.

Confirm the decision in writing and explain that there is no further right to appeal.